

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

MORDECHAI KAPLINSKY,

Civil Action No.:

Plaintiff,

-against-

**COMPLAINT FOR VIOLATIONS
OF THE TELEPHONE
CONSUMER PROTECTION ACT**

ROBERT WOOD JOHNSON HOSPITAL,

Defendants.

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Plaintiffs, MORDECHAI KAPLINSKY ("Plaintiff"), on behalf of himself, by and through his attorneys, Edward B. Geller, Esq., P.C., as and for its Complaint against the Defendant, ROBERT WOOD JOHNSON HOSPITAL (hereinafter referred to as "Defendant(s)"), respectfully sets forth, complains and alleges, upon information and belief, the following:

INTRODUCTION/PRELIMINARY STATEMENT

1. Plaintiffs bring this action on his own behalf for damages and declaratory and injunctive relief arising from the Defendant's violation(s) under Title 47 of the United States Code, §227 commonly known as the Telephone Consumer Protection Act (TCPA).

PARTIES

2. Plaintiff MORDECHAI KAPLINSKY is a resident of the State of New Jersey, residing at 1171 Evergreen Ave, Lakewood, New Jersey 08701.

3. Defendant ROBERT WOOD JOHNSON HOSPITAL is a New Jersey corporation with an address located at One Robert Wood Johnson Place, New Brunswick, New Jersey 08901.

JURISDICTION AND VENUE

4. The Court has jurisdiction over this matter pursuant to 28 USC §1331, as well as 15 USC §1692 et seq. and 28 U.S.C. §2201. If applicable, the Court also has pendent jurisdiction over the state law claims in this action pursuant to 28 U.S.C. §1367(a).

5. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(2).

FACTUAL ALLEGATIONS

6. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "5" herein with the same force and effect as if the same were set forth at length herein.

7. On approximately December 2014, Defendant began communicating with Plaintiff by means of telephone calls leaving inexplicable prerecorded computerized messages originating from 732 828 3000 and placed by an auto dialer to Plaintiffs' mobile telephone number of 732 887 1555. Attached hereto as Exhibit "A" are two screen shots exemplary of Defendant's calls to Plaintiff's telephone.

8. The Plaintiff has never had a relationship with Defendant in any form either as a patient or as an employee.

9. On September 17th, 2015 at 4.35 pm, Plaintiff placed a telephone call to Defendant and was connected to a representative whom Plaintiff informed about receiving automated prerecorded calls which calls were unintelligible to Plaintiff and instructed Defendant to cease said calls.

10. Defendant's representative assured Plaintiff that his number would be placed on a do not call list.

11. Despite such assurance, Defendant thereafter continued to call Plaintiff and leave automated messages until the present time.

12. As of October 31st, 2015 Defendant has placed at least seven hundred (700) calls to Plaintiff. Attached hereto as Exhibit "B" is an Excel spreadsheet listing dates and times of Defendant's calls to Plaintiff, a record of which calls, upon information and belief, are in Defendant's possession.

FIRST CAUSE OF ACTION
(Violations of the TCPA)

13. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "12" herein with the same force and effect as if the same were set forth at length herein.

14. According to the Telephone Consumer Protection Act 47 USC §227(b)(A)(iii), any person within the United States or any person outside the United States, if the recipient is within the United States, is prohibited from using any automatic telephone dialing system or an artificial or prerecorded voice to any telephone number assigned to a cellular telephone service or any service for which the called party is charged for the call.

15. With the prerecorded automated auto dialer calls to Plaintiff's cell phone commencing on or about December 1st, 2014, the Defendant violated various provisions of the TCPA, including but not limited to 47 USC §227(b)(A)(iii).

16. The Defendant, having been informed that Plaintiffs requested that no further calls be made, willfully continued to harass Plaintiff, violating the TCPA at least seven hundred (700) times to date, which calls are ongoing.

17. As a result of Defendant's violations of the TCPA, Plaintiff has been damaged and is entitled to damages in accordance with the TCPA.

DEMAND FOR TRIAL BY JURY

18. Plaintiff hereby respectfully requests a trial by jury for all claims and issues in its Complaint to which it is or may be entitled to a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment from the Defendant as follows:

- A. For actual damages provided and pursuant to 15 USC §1692k(a)(1);
- B. For trebled damages to be awarded to the Plaintiff in accordance with the TCPA, for each of the Defendant's willful or knowing violations of the TCPA.
- C. For statutory damages provided and pursuant to 15 USC §1692k(2)(B);
- D. For attorneys' fees and costs provided and pursuant to 15 USC §1692k(a)(3);
- E. A declaration that the Defendant's practices violated the TCPA;
- F. For any such other and further relief, as well as further costs, expenses and disbursements of this action, as this Court may deem just and proper.

Dated: November 2, 2015

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Edward B. Geller", with a long, sweeping horizontal stroke extending to the right.

EDWARD B. GELLER, ESQ. (EG9763)
EDWARD B. GELLER, ESQ., P.C.

Attorney for the Plaintiff MORDECHAI KAPLINSKY

To: Robert Wood Johnson Hospital
RWJ University Hospital New Brunswick
One Robert Wood Johnson Place
New Brunswick, New Jersey 08901

(Via Prescribed Service)

Clerk of the Court,
United States District Court, District of New Jersey
Clarkson S. Fisher Building & U.S. Courthouse
402 East State Street Room 2020
Trenton, New Jersey 08608

(Via Electronic Court Filing)

EXHIBIT "A"

NUMBER BEING CALLED

732-887-1555 from the voice

EXHIBIT "D."

DATE	TIME	RWJ NUMBERS
5-Aug		157 732-828-3000
5-Aug		257 888-667-4911
6-Aug		1220 732-418-8041
6-Aug		251 He got this number dec 2014
6-Aug		512 Has been getting calls since
7-Aug		453
8-Aug		908
10-Aug		208
10-Aug		244
10-Aug		318
10-Aug		540
11-Aug		157
11-Aug		259
12-Aug		1157
12-Aug		412
13-Aug		1119
13-Aug		329
14-Aug		209
14-Aug		423
15-Aug		414
15-Aug		545
15-Aug		839
16-Aug	916PM	
16-Aug	1054PM	
17-Aug	644AM	
17-Aug		325
17-Aug		517
18-Aug		1150
18-Aug		1211
18-Aug		527
18-Aug		644
19-Aug		918
19-Aug		119
23-Aug		137
24-Aug		608
24-Aug		1204
24-Aug		505
24-Aug		518
24-Aug		730
25-Aug	124am	
25-Aug		322
25-Aug		322
25-Aug		521
25-Aug		522
26-Aug		144
26-Aug		432

26-Aug	833
27-Aug 357am	
27-Aug	221
28-Aug	1207
28-Aug	533
29-Aug	906
29-Aug	1026
29-Aug	306
29-Aug	516
29-Aug	944
29-Aug	1010
30-Aug	412
30-Aug	823
31-Aug	239
31-Aug	718
31-Aug	756
1-Sep 347am	
1-Sep	102
1-Sep	533
2-Sep 541am	
2-Sep 1017pm	
2-Sep 122pm	
2-Sep	113
3-Sep	122
4-Sep 406am	
4-Sep	414
5-Sep 1104pm	
7-Sep 923am	
7-Sep	1027
7-Sep	601
7-Sep	819
8-Sep	356
8-Sep 741pm	
9-Sep 611am	
9-Sep 916am	
9-Sep	1121
9-Sep	245
9-Sep 904pm	
10-Sep	1055
10-Sep	1204
11-Sep	108
12-Sep	803
12-Sep	237
13-Sep	844
13-Sep 928pm	
14-Sep	709
15-Sep	455

16-Sep 623am	
16-Sep 921pm	
17-Sep	1113
17-Sep	1219
17-Sep	326
17-Sep	401 9-17 we called at 435pm stop calli
17-Sep	859
18-Sep	1137
18-Sep	518
18-Sep	939
19-Sep	927
19-Sep	1034
21-Sep 642am	
22-Sep	243
22-Sep	721
23-Sep	637
23-Sep 949pm	
24-Sep 414am	
24-Sep	814
24-Sep	234
26-Sep 420am	
26-Sep	812
27-Sep	1057
27-Sep	720
28-Sep 411am	
28-Sep	706
29-Sep 530am	
30-Sep 449am	
30-Sep	240
1-Oct	248
1-Oct	639
2-Oct	844
3-Oct 329pm	
3-Oct 654pm	
4-Oct	1031
4-Oct	1047
4-Oct 1106pm	
5-Oct	543
5-Oct	759
6-Oct	412
6-Oct	952
7-Oct	1004
7-Oct	217
8-Oct	119
8-Oct	302
8-Oct	407
9-Oct	144

9-Oct 948pm	
10-Oct 101pm	
10-Oct	438
11-Oct 509am	
11-Oct 709am	
11-Oct	124
11-Oct	427
12-Oct	1229
12-Oct	216
12-Oct 1011pm	
13-Oct 407am	
13-Oct	1216
13-Oct	230
13-Oct	358
14-Oct	1028
15-Oct 446am	
15-Oct	735
16-Oct	951
16-Oct	433
16-Oct	555
17-Oct	910
17-Oct	700
18-Oct	1218
18-Oct	108
19-Oct	1231
19-Oct	310
20-Oct	927
20-Oct	1146
20-Oct	457
21-Oct 713am	
21-Oct	1156
21-Oct	424
22-Oct	239
22-Oct	510
22-Oct	529
22-Oct	841
23-Oct	927
24-Oct	1124
24-Oct	1148
24-Oct	1208
24-Oct	911
25-Oct 452am	
26-Oct 541am	
26-Oct	415
26-Oct	659
26-Oct 1131pm	
27-Oct	143

28-Oct	207
28-Oct	428
28-Oct 946pm	
29-Oct	847